

**STATE OF NEW JERSEY
Board of Public Utilities
Two Gateway Center
Newark, NJ 07102**

ENERGY

IN THE MATTER OF THE PETITION OF)	ORDER ADOPTING STIPULATION
ELIZABETHTOWN GAS COMPANY, A)	
DIVISION OF NUI CORPORATION, TO)	
REVISE ITS REMEDIATION ADJUSTMENT)	
CLAUSE FACTOR)	DOCKET NO. GR99070512

(SERVICE LIST ATTACHED)

BY THE BOARD:

On July 30, 1999, NUI Elizabethtown Gas Company ("Elizabethtown" "Petitioner" or "Company") filed a petition with the Board of Public Utilities ("BPU" or "Board") in the above-captioned proceeding requesting authority continue its existing Remediation Adjustment Clause ("RAC") factor of \$0.0011, including all applicable taxes for the period October 1, 1999 through September 30, 2000. The Company's proposed RAC factor was designed to enable Elizabethtown to recover \$582,006 of costs incurred in connection with Elizabethtown's former manufactured gas plant ("MGP") sites during the recovery year ending September 30, 2000. The Company's filing further reflected that Elizabethtown incurred \$1,950,560 of net deferred remediation costs during the twelve months ended June 30, 1999. The proposed RAC factor was designed to permit the Company to recover a portion of these net deferred remediation costs, as well as certain costs associated with prior periods that have previously been examined and approved by the Board. This case was retained by the Board.

The parties in this proceeding are: Elizabethtown, the Division of the Ratepayer Advocate ("Advocate"), and the Board's Staff ("Staff"). The Company has replied to discovery that has been propounded by the Advocate and Staff. The parties have engaged in discovery and settlement discussions in this proceeding. As a result of these discussions, the parties have reached an agreement on various issues in this proceeding and entered into the attached Stipulation on November 30, 2001.

The Stipulation provides for recovery, over a seven-year amortization period beginning October 1, 1999, of Petitioner's MGP costs incurred during the twelve months ended June 30, 1999, through Petitioner's Board approved RAC mechanism. The salient features of the Stipulation are as follows:

- A. RAC Factor. The current RAC factor of \$0.0011 per therm, inclusive of applicable taxes, shall remain in effect until changed by further Order of the Board. The Company's net remediation costs for the twelve months ended June 30, 1999 were \$1,950,560. The appropriate amount to be recovered during the twelve months ended September 30, 2000 is \$575,607. This amount includes \$929,606 (total amortization costs for the expense pools from 1996-1999) minus a deferred tax benefit of \$287,439 and minus a \$66,560 credit related to agreed upon adjustments and the reconciliation of the prior year's RAC recovery.
- B. Issues Related To The Recovery of RAC-Related Costs. Elizabethtown will use its best efforts to eliminate the need to maintain letter of credit sureties mandated by Administrative Consent Orders issued by the New Jersey Department of Environmental Protection. The charges associated with such sureties amount to an average cost of \$7,074 per year.

The Company asserted that disclosure of information related to ongoing litigation with insurance carriers concerning reimbursement of MGP expenditures might compromise its efforts to obtain recoveries. The parties have reserved their rights to review and contest past and present litigation-related expenditures. These expenditures shall remain subject to review and challenge in a future proceeding in which full information concerning such expenditures will be disclosed.

With the noted exception concerning MGP-related insurance litigation expenditures, all issues related to the recovery of net deferred remediation costs incurred during the twelve months ended June 30, 1999 are resolved.

- C. Audit of RAC Costs. The Company's RAC costs will remain subject to audit by the Board's Division of Audits. This Stipulation shall not preclude nor prohibit the Board from pursuing further action determined to be appropriate and within its jurisdiction as a result of any such audit.

Discussion and Findings

The Board has reviewed the Stipulation of the Parties in this matter and finds it to be reasonable and in the public interest as they will permit Petitioner to recover ongoing remediation costs. The Board, however, emphasizes that in approving the Stipulation, the Board is not waiving its right to review any information related to ongoing litigation with insurance carriers regarding reimbursement of all or some of these costs. The Board further emphasizes that all parties will have an opportunity, in future proceedings, to review and contest issues related to the Company's litigation with insurance carriers, including the reasonableness of past and present litigation, and that such expenses shall remain subject to refund with interest. Accordingly, the Board HEREBY ADOPTS the attached stipulation in its entirety and incorporates its terms and conditions as though set forth herein.

The Company's RAC costs shall remain subject to audit by the Board. This Decision and Order shall not preclude nor prohibit the Board from taking any such actions deemed to be appropriate as a result of any such audit.

DATED: March 7, 2002

BOARD OF PUBLIC UTILITIES

BY:

(SIGNED)

JEANNE M. FOX
PRESIDENT

(SIGNED)
FREDERICK F. BUTLER
COMMISSIONER

(SIGNED)
CAROL J. MURPHY
COMMISSIONER

(SIGNED)
CONNIE O. HUGHES
COMMISSIONER

ATTEST:

(SIGNED)
HENRY M. OGDEN
ACTING BOARD SECRETARY